

Article 1. PROVIDER NETWORK REQUIREMENTS

Section 1.01 *Provider contracts.*

(a) *Generally.*

The CONTRACTOR must enter into written contracts with properly credentialed health care service providers, licensed in Texas, either directly or through intermediaries, such as Independent Physicians Associations (IPAs). The CONTRACTOR must have its own credentialing process to review, approve, and periodically re-certify the credentials of all participating providers in compliance with 28 T.A.C. § 11.1902.

(b) *Contract terms.*

The CONTRACTOR must ensure that, as part of its contract with the provider, or in its intermediary's contract with the actual provider of health services, in addition to any requirements imposed by state insurance law or TDI regulation, the following requirements are included:

(1) A statement to the effect that the provider is subject to all state and federal laws, rules and regulations that apply to all persons or entities receiving state and federal funds, including provisions of the Clean Air Act and the Federal Water Pollution Control Act, as amended, found at 42 C.F.R. 7401, *et seq.* and 33 U.S.C. 1251, *et seq.*, respectively; the exclusion, debarment, and suspension provisions of Section 1128(a) or (b) of the Social Security Act (42 USC §1320 a-7), or Executive Order 12549; the provisions of the Byrd Anti-Lobbying Amendment, found at 31 U.S.C. 1352, relating to use of federal funds for lobbying for or obtaining federal contracts; Health and Safety Code, Chapter 85, Subchapter E, relating to the Duties of State Agencies and State Contractors for the confidentiality of AIDS and HIV-related medical information and an anti-discrimination policy for employees and enrollees with communicable diseases; confidentiality provisions relating to enrollee information (cite); Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, and all requirements imposed by the regulations implementing these acts and all amendments to the laws and regulations; the provisions of Executive Order 11246, as amended by 11375, relating to Equal Employment Opportunity; Texas Government Code, Title 10, Subtitle D, Chapter 2161 and 1 TAC §111.11(b) and 111.13(c)(7) relating to the good faith effort to use Historically Underutilized Businesses (HUBs); section 9-7.06 of Article IX of the General Appropriations Act of 1999 regarding "Buy Texas"; Texas Family Code §231.006 regarding child support payments; and chapter 552 of the Texas Government Code regarding the release of public information;

(2) A statement that the provider understands and agrees that the CONTRACTOR has the sole responsibility for payment of covered services rendered by the provider under the CONTRACTOR/provider contract and a statement that in the event that the CONTRACTOR becomes insolvent or ceases operations, the provider's sole recourse is against the CONTRACTOR through the CONTRACTOR'S bankruptcy, conservatorship, or receivership estate;

(3) A statement that the CONTRACTOR will initiate and maintain any action necessary to stop a health care provider or employee, agent, assign, trustee, or successor-

in-interest from maintaining an action against HHSC or any CHIP member to collect payment from HHSC or any CHIP members over and above allowable copayments, excluding payment for services not covered under CHIP;

(4) A statement that the CONTRACTOR must defend, indemnify and hold harmless CHIP members and HHSC against any and all claims, costs, damages, or expenses (including attorney's fees) of any type or nature arising from the failure, inability, or refusal of the HMO to pay health care providers for covered services or supplies;

(5) The CONTRACTOR must ensure that each health care provider contract prohibits the provider from engaging in direct marketing to CHIP members that is designed to increase enrollment in a particular health plan. This prohibition should not constrain providers from engaging in permissible marketing activities consistent with broad outreach objectives and application assistance;

(6) A statement that the provider is subject to all state and federal laws and regulations relating to fraud and abuse in health care and CHIP. The provider must cooperate and assist HHSC and any state or federal agency with the duty of identifying, investigating, sanctioning or prosecuting suspected fraud and abuse. The provider must provide originals and/or copies of all records and information requested and allow access to premises and provide records to HHSC or its authorized agent(s), HCFA, the U.S. Department of Health and Human Services (DHHS), FBI, TDI, or other unit of state government. The provider must provide all copies of records free of charge; and

(7) A requirement that the provider is responsible for collecting any applicable CHIP copayments or deductibles and the limitations on those copayments and deductibles as set out in section _____ of this Agreement.

THE CONTRACTOR REMAINS RESPONSIBLE FOR PERFORMING AND FOR ANY FAILURE TO PERFORM ALL DUTIES, RESPONSIBILITIES AND SERVICES UNDER THIS AGREEMENT REGARDLESS OF WHETHER THE DUTY, RESPONSIBILITY OR SERVICE IS CONTRACTED TO ANOTHER FOR ACTUAL PERFORMANCE.

Section 1.02 Provider accessibility.

The CONTRACTOR is required to meet the TDI accessibility and availability requirements and the TDI services requirements for HMOs (Title 28, Part I, Chapter 11, Subchapters Q and U of the Texas Administrative Code). Out-of-network and emergency services also must be provided in accordance with the Texas Insurance Code and TDI regulations as they apply to HMOs. The CONTRACTOR is not responsible for payment for unauthorized non-emergency services provided to an enrollee by out-of-network providers.

The CONTRACTOR must have a sufficient number of providers (including pediatric providers) to meet the needs of enrollees on a timely basis. PCPs and specialty care providers with experience in treating children and adolescents must be available to all enrollees.

The CONTRACTOR must ensure that CCSHCN have access to treatment by a multidisciplinary team when determined to be medically necessary for effective treatment or to avoid separate and fragmented evaluations and service plans. The teams must include both physician and non-physician providers determined to be necessary by the enrollee's PCP.

The CONTRACTOR must assure access to Texas Department of Health (TDH)-designated Level I and Level II trauma centers within the State or hospitals meeting the equivalent level of trauma care. The CONTRACTOR may make out-of-network reimbursement arrangements with the TDH-designated Level I and Level II trauma centers.

The CONTRACTOR must assure adequate access of all members to children's hospitals and pediatric health care centers with recognized special expertise in the care of CCSHCN to meet the medically necessary referrals of a PCP as documented in the enrollee's medical record. TDH-approved pediatric transplant centers and federally qualified hemophilia centers are examples. The CONTRACTOR may make out-of-network reimbursement arrangements for treatment in these hospitals or centers.

Section 1.03 Particular providers.

(a) Significant Traditional Providers.

The CONTRACTOR must seek participation in its provider network from:

(1) all hospitals receiving disproportionate share hospital funds in the Medicaid program in State Fiscal Year 1999; and

(2) all other providers in a county that, when listed by provider type or by specialty code in descending order by the amount of recipient or enrollee billings, provided the top 80 percent of recipient or enrollee billings for either the Texas Medicaid Program in State Fiscal Year 1998 as determined by the Texas Department of Health or the Texas Healthy Kids Corporation in State Fiscal Year 1999 as determined by the Texas Healthy Kids Corporation for each provider type or specialty code or providers that were funded and in good standing with the Department of Mental Health and Mental Retardation or the Council on Alcohol and Drug Abuse in State Fiscal Year 1999.

(b) Tribal clinics.

The CONTRACTOR must seek participation in its provider network from the tribal health clinics located near El Paso, Eagle Pass, and Livingston.

(c) Rural providers.

In rural areas of the CSA, the CONTRACTOR must seek the participation in its provider network of rural hospitals, physicians, home and community support service agencies, and other rural health care providers who:

(1) are the only providers located in the service area; and

(2) are Significant Traditional Providers as defined in 1 T.A.C. § 361.001.

Section 1.04 Good-faith effort

The CONTRACTOR must demonstrate a good faith effort to include STPs, tribal clinics, and rural providers in its provider network. The CONTRACTOR's compliance with this requirement must be reported on a quarterly basis using report requirements defined by HHSC.

To be a network provider under this section, STPs, tribal clinics, and rural providers must agree to the provider contract requirements set out in section ____ of this Agreement unless exempted from a requirement by law or rule. STPs, tribal clinics, and rural providers must also agree in the contract that they will:

(1) accept the standard reimbursement rate offered by the CONTRACTOR to other providers for the same or similar services; and

(2) meet the CONTRACTOR'S credentialing requirements. The CONTRACTOR must not require STPs to meet a different or higher credentialing standard than is required of other providers providing the same or similar services. The CONTRACTOR also must not require STPs to contract with a subcontractor who requires a different or higher credentialing standard than the HMO's if the application of that higher standard results in a disproportionate number of STPs being excluded from the subcontractor. However, for rural providers, lack of board certification or accreditation by JCAHO may not be the only grounds on which the CONTRACTOR excludes a rural provider from the provider network.

Failure to demonstrate a good faith effort to include STPs, tribal clinics, and rural providers in the CONTRACTOR'S provider network, or failure to report efforts and compliance as required in this section are defaults under this Agreement and may result in any or all of the sanctions and remedies included in Article _____ of this Agreement.

Section 1.05 *Provider tax identification numbers.*

The CONTRACTOR must require tax identification numbers from all providers. The CONTRACTOR is required to do back-up withholding from all payments to providers who fail to give tax identification numbers or who give incorrect numbers.